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JAN 29 1993

January 25, 1993

RECEIVED FCC MAIL ROOM

Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

JAN 29 1993  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Sirs:

It has recently come to my attention that the Federal Communications (FCC) is considering an action that will severely limit and potentially eliminate a very important hobby of mine.

Your Notice of Proposed Rule Making (NPRM) in FR Docket 92-235 replaces Part 90 of your rules with a new Part 88. Part 90 allows for safe use of R/C aircraft and surface models by keeping 10 Khz spacing between fixed commercial users and frequencies used by R/C enthusiasts. The new Part 88 will allow mobile users on frequencies within 2.5 Khz of frequencies available to us, eliminating safe use of at least 31 of the 50 channels on the 72 MHz band and 10 of the 30 frequencies on the 75 MHz band now used by hobbyists. In fact, more channels will likely be affected.

This action will have a severe, detrimental impact upon me and the entire R/C hobby industry. If put into effect, my airplane or helicopter could easily be shot out of the sky by a mobile user I'd have no way of knowing about. This creates a severe health hazard.

I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10 Khz spacing between all frequencies on 75 MHz and 72 MHz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely,



5340 Village Oak Cove  
Memphis, TN 38141  
901-795-3835

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FCC MAIL ROOM

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1919 M Street, NW  
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I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10 Khz spacing between all frequencies on 75 MHz and 72 MHz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely,

*Robert E. Haney*

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Thank you for your consideration.

Sincerely,

*Joseph F. McClure*

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LISTABODE

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1919 M Street, NW  
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Thank you for your consideration.

Sincerely,

*John E. Borch*

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I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

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Thank you for your consideration.

Sincerely,

*Richard T. Scheffer*

RICHARD T. SCHEFFER  
5566 MILLBRANCH RD  
MEMPHIS TN 38116

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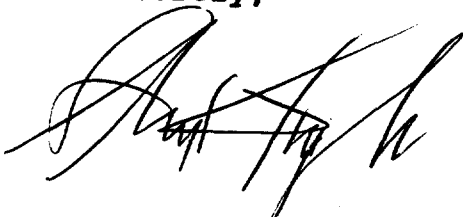
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I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

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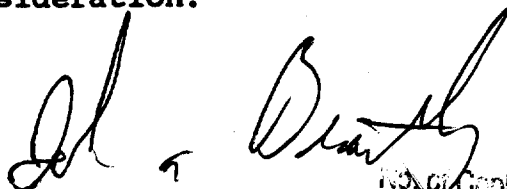
This action will have a severe, detrimental impact upon me and the entire R/C hobby industry. If put into effect, my airplane or helicopter could easily be shot out of the sky by a mobile user I'd have no way of knowing about. This creates a severe health hazard.

I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10 Khz spacing between all frequencies on 75 MHz and 72 MHz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

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I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10 Khz spacing between all frequencies on 75 MHz and 72 MHz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely,

*Philip N. Webb*  
1906 Corbin Rd.  
Germantown Tn. 38139

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List A B C D E



I don't think it is wise of the FCC to seek to expand the operation conditions of land mobile radio users at the expense of the radio-control modelers. The FCC may not think we are as important as business users of radio, but we have a considerable investment in our models and in our radio equipment. It is a sizeable industry that must be saved from these detrimental FCC actions. The hobby provides many hours of enjoyment to hundreds of thousands of people like myself and contributes to the advancement and development of the commercial aviation industry.

Please help me continue the safe enjoyment of my pastime by not allowing the FCC to carry out its proposal PR Docket 92-235 for the 72-76 MHz band. We will need your help urgently because the FCC has a deadline of February 26, 1993 after which it may become more difficult to avoid halting these proposals from going into effect.

Thank you for your help in this important matter.

Sincerely,

*Phillip N. Wells*  
*1906 Corbin Rd.*  
*German town, In.*  
*38139*

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JAN 29 1993

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JAN 29 1993

Jan 24, 1993

Dear Sirs:

FEDERAL COMMUNICATIONS COM.  
OFFICE OF THE SECRETARY

It has recently come to my attention that the Federal Communications Commission (FCC) is considering an action that will severely limit and potentially eliminate a very important sport of mine my late grandfather and many other R/C enthusiast.

Your Notice of Proposed Rule Making (NPRM) in PR Docket 92-235 replaces Part 90 of your rules with a new part 88. Part 90 allows for Safe use of R/C aircraft and surface models by keeping 10 Khz spacing between fixed commercialized and frequencies used by R/C enthusiasts. The new part 88 will allow mobile users on frequencies within 2.5 Khz of frequencies available to us, eliminating safe use of at least 31 of the 50 frequencies on the 72 Mhz band and 10 of the 30 frequencies on the 75 Mhz band now used by hobbyists. In fact more channels will likely be affected.

This action will have a severe, detrimental impact upon my investment and the entire R/C industry. If put into action, my airplanes could easily be shot out of the sky by a mobile user in the area, and I'd have no way of knowing. This will create a severe health hazard.

I have a real interest in this hobbie and have only been involved in it for two years. I own three radios two airplanes and one car. In addition, have numerous engines, motors, chargers, field accessories and other products necessary for my hobbie. When you consider there are hundreds of thousands of other R/C hobbyists in the U.S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10Khz spacing between all frequencies on the 75 Mhz and the 72 Mhz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely  
Sean Hannon

*Sean Hannon*

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Dear Sirs:

FEDERAL COMMUNICATIONS COMMISSION  
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It has recently come to my attention that the Federal Communications Commission (FCC) is considering an action that will severely limit and potentially eliminate a very important hobby of mine, radio controlled (R/C) model airplanes, helicopters, cars and boats.

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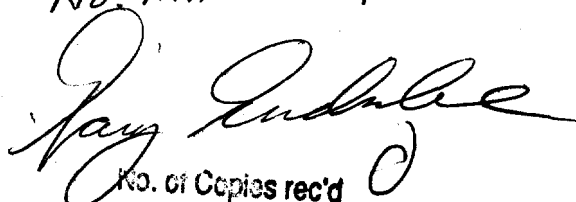
I have been involved in this hobby for 25 years. I own 5 radios and 9 model airplanes, helicopters, cars and boats. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U.S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

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Thank you for your consideration.

Sincerely,

GARY ENDERSB\*  
AMA # 123305  
501 IVANHOE CT.  
NO. MANICATO, MN 56003

  
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Federal Communications Commission  
1919 M Street NW  
Washington, DC 20554

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FCC MAIL ROOM

JAN 29 1993

**Urgent: Serious problem with PR Docket 92-235**

JAN 29 1993

FCC MAIL ROOM

Dear Sirs:

**Please help me!** My hobby is the construction and operation of radio controlled model airplanes. I have been in this hobby for many years and have a considerable investment in it. It is a wonderful hobby for young and old. Also, I have many friends in this hobby.

I am very concerned about the proposed rules that are currently under consideration by the Federal Communications Commission (FCC). The proceeding is **PR Docket 92-235**. If adopted, the new rules will absolutely cause radio interference on the majority of frequencies currently assigned for RC model aircraft use. Safety is very important in this hobby.

Our RC frequencies are in the 72 - 76 MHz band. We share this band with the private land mobile dispatch operations. However, now the FCC wants to create more land mobile frequencies by splitting them into narrower bandwidths and rearranging this band. The mobile frequencies will be separated by 5 KHz but they will bracket the RC frequencies by only 2.5 KHz. This will cause interference on the RC channels. In addition **the technical specifications for the new mobile equipment allows a frequency tolerance which could place their signal directly on an RC channel.**

Can you imagine all the RC airplanes, each costing several hundred dollars or more, that will be crashing to the ground because someone uses a "mobile" telephone in the vicinity. We modelers have controls and rules in place to assure the safety of the operators and bystanders and also the protection of surrounding property. But there will be no protection against these new frequencies because they are "mobile" and we would never know where they are.

The frequency changes are proposed by the FCC Land Mobile Service. The FCC has issued a Notice of Proposed Rule Making (**NPRM - PR Docket 92-235**)

All over the country there are organized events and contests where hundreds of operators participate. Spectators often number in the thousands at these events. This hobby provides many hours of enjoyment to hundreds of thousands of people like myself and my family. *Please help keep model aviation safe.*

**The FCC must not be allowed to carry out its proposals for the 72 - 76 MHz band.**

Sincerely

*Edwin Bohm*

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Federal Communications Commission  
1919 M Street NW  
Washington, DC 20554

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FCC MAIL ROOM

**Urgent: Serious problem with PR Docket 92-235.**

JAN 29 1993

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**The FCC must not be allowed to carry out its proposals for the 72 - 76 MHz band.**

Sincerely

Donald E. Arnett Jr.  
717 E. Smith St.  
Hicksville, Ohio 53426

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1919 M Street NW  
Washington, DC 20554

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Sincerely

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*[Handwritten signature]*

January 21, 1993

Federal Communications Commission  
1919 Main Street, NW  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Sirs:

FCC MAIL ROOM

It has recently come to my attention that the Federal Communications Commission is considering an action that will severely limit and potentially eliminate a very important hobby of mine, radio controlled (R/C) model airplanes.

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This action will have a severe, detrimental impact upon me and the entire R/C hobby industry. If put into effect, my airplane could easily be shot out of the sky by a mobile user. This creates a severe health and property hazard.

I have been involved in the hobby for many years and I own eight radio-controlled airplanes. In addition, I have several engines, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U.S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10 KHz spacing between all frequencies on the 75 and 72 MHz bands available for safe use by R/C enthusiasts. Please do not eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely,



Gerald R. Fuqua  
215 Evergreen Circle  
Hendersonville, TN 37075

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[JAN 29 1993]

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It has recently come to my attention that the Federal Communications (FCC) is considering an action that will severely limit and potentially eliminate a very important hobby of mine.

Your Notice of Proposed Rule Making (NPRM) in PR Docket 92-235 replaces Part 90 of your rules with a new Part 88. Part 90 allows for safe use of R/C aircraft and surface models by keeping 10 Khz spacing between fixed commercial users and frequencies used by R/C enthusiasts. The new Part 88 will allow mobile users on frequencies within 2.5 Khz of frequencies available to us, eliminating safe use of at least 31 of the 50 channels on the 72 MHz band and 10 of the 30 frequencies on the 75 MHz band now used by hobbyists. In fact, more channels will likely be affected.

This action will have a severe, detrimental impact upon me and the entire R/C hobby industry. If put into effect, my airplane or helicopter could easily be shot out of the sky by a mobile user I'd have no way of knowing about. This creates a severe health hazard.

I have been involved in this hobby for several years. I own many radios and model airplanes. In addition, I have numerous engines, motors, chargers, field accessories and other products necessary to support my hobby. When you consider there are hundreds of thousands of other R/C hobbyists in the U. S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to reconsider this. Keep 10 Khz spacing between all frequencies on 75 MHz and 72 MHz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely,

*Fred D. Mann*  
1891 Lyndale Ave.  
Memphis, Tenn.  
38107-5108

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Federal Communications Commission  
1919 M Street, NW  
Washington, D.C. 20554

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JAN 29 1993

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Dear Sirs:

FCC - MAIL ROOM  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

As it now stands Part 90 of PR Docket 92-235 allows for a safe 10 KHZ spacing between fixed commercial users and frequencies used by R/C enthusiasts.

The proposed replacement of Part 90 with a new Part 88, will reduce this spacing to 2.5 KHZ. We hobbyist stand to loose half of our usable channels on the 72 MHZ band, and one third of those on 75 MHZ band.

If this rule change is put into effect, it will have a detrimental effect on me and my fellow R/C hobbyist. I now own 4 radios and 5 R/C aircraft, along with numerous pieces of support equipment. When you consider there are hundreds of thousands of other R/C hobbyist in the U.S. just like me, these proposed rule changes will affect a lot of people economically and in terms of enjoyment.

I urge you to consider this. Keep 10 KHZ spacing between all frequencies on 72 MHZ and 75 MHZ bands for safe use by R/C enthusiasts.

Thank you for your consideration.

Sincerely,

*James A. Monroe*

James A. Monroe

520 Mustang Ct. P.O.Box 336

Lavon, TX. 75166

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JAN 29 1993

FCC - MAIL ROOM

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15711 Country Lake Dr.

FL 33624

January 25, 1993

Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

JAN 29 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Sirs:

It has recently come to my attention that the Federal Communications Commission (FCC) is considering an action that will severely limit and potentially eliminate a very important hobby of mine.

Your Notice of Proposed Rule Making (NPRM) in PR Docket 92-235 replaces part 90 of your rules with a new Part 88. Part 90 allows for safe use of R/C Aircraft and surface models by keeping 10Khz spacing between fixed commercial users and frequencies used by R/C enthusiasts. The new part 88 will allow mobile users on frequencies within 2.5Khz of frequencies available to us, eliminating the safe use of at least 31 of the 50 channels on the 72Mhz band and 10 of the 30 Frequencies on the 75Mhz band now used by hobbyists. In fact more channels will likely be affected.

If adopted the new rule will have a severe, detrimental impact upon me and the entire R/C hobby industry. It will create a significant safety risk and severely damage a truly rewarding hobby for hundreds of thousands of modelers. Our flying models represent a labor of love even more than the money we invest in them. This new rule will literally shoot our creations out of the sky.

I urge you to reconsider this action. Keep 10 Khz spacing between all frequencies on 75 Mhz and 72 Mhz frequencies available for safe use by R/C enthusiasts. Please don't sour this wonderful hobby that has grown tremendously over the past 30 years and has so much investment of money and enjoyment of people nationwide.

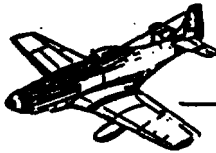
Thank you for your consideration.

Sincerely,

*Patsy R. Tejera*  
Patsy R. Tejera

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**Dick Smith** AMA 517



790 CRENSHAW DR. HEMET CA. 92343 714 652 4793

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JAN 29 1993

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JAN 29 1993

FCC - MAIL ROOM

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF THE SECRETARY

January 20 1993.

F.C.C.

1919 M St. N.W.

Washington ,D.C. 20554

Subject NPRM PR Docket 92-235

Dear Sirs:

I am concerned about the impact of the frequency restructuring proposed by NPRM PR Docket 92-235, and the insertion of additional frequencies between those currently assigned for modeling and commercial users.

I am very opposed to this proposal.

The proposal to allow mobile users on frequencies within 2.5 Khz of frequencies available to us, eliminates safe use of at least 31 of the 50 channels on the 72 Mhz band and ten of the 30 frequencies on the 75 Mhz band now used by hobbyists. This action will have a severe, detrimental impact upon me and the entire R/C hobby industry.

Only a few years ago at great expense to myself I was required to replace all of my radio equipment because of the reduction of the frequency spacing from 20 Khz to 10 Khz. This action was necessary in order to continue my model flying without concern that my equipment would endanger others. Because of the present economic situation I no longer can afford the replacement cost of the radio equipment I presently own. For me this proposal would bring to an end the hobby I have enjoyed for many years, and render useless thousands of dollars worth of model aircraft.

Adoption of this proposal would preclude the safe operation of model aircraft without endangering the lives and property of others, both nearby and far away.

I urge you to reconsider this. Keep 10Khz spacing between all frequencies on 72 Mhz and 75 Mhz bands available for safe use by R/C enthusiasts. Please don't eliminate this hobby that has grown tremendously over the past thirty years and has so much investment of money and enjoyment of people nationwide.

Thank you for your consideration.

Sincerely,

*Richard L. Smith*

No. 61-100000 rec'd

12-100000



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**C-Comm of Kalamazoo, Inc.**  
**5651 N. 8th St**  
**Kalamazoo, MI 49009**

**Radio Communications Equipment Sales and Service**

**RECEIVED**

**JAN 29 1993**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: Managing Director  
Federal Communications Commission  
Washington, DC 20554

Comments on NPRM PR Docket 92-235

NPRM 92-235 cannot be implemented for the following reason:

Under Radio Services, page 3, part 18. Frequency coordination: "We propose that frequency coordinators continue to play a major role in managing the PLMR spectrum... ..APCO, NABER and SIRSA....."

The Federal Communications Commission and their General Council and Robert L. Pettit have repeatedly refused to deny they are in violation of Federal Civil Rights Laws\* by forcing citizens to pay private sector entities for the right to participate in a Federally protected activity. (See pages 1-5 appendix)

This Commission proposal (edict) proves their continued allegiance with monopoly coordinators despite the outrage of thousands of citizens. This totally contradicts their NPRM 88-548 which would have reinstituted field survey coordinating as "Direct Access" coordinations in addition to existing coordinators thus ending an unlawful monopoly.

I am convinced by FCC actions and inactions that forces within the Federal Communications Commission introduced NPRM 88-548 in a deceitful sham to quiet the public and had no intention to ever implement it to undo the harm done with NPRM 83-737. I feel there is adequate proof to bring the participants within and outside the FCC before the public to account for such waste of taxpayers moneys spent by the FCC creating and nursing this fraud and continuation of a criminal activity. This does not include the waste of time and thus money by citizens who foolishly attempted to participate or who would participate in this on-going sham.

It is my opinion NPRM-92-234 is a blatant attempt at continuation of this this injustice and defiance of Congressional written law and intention\*. It must be proven that the Federal Communications Commission and perhaps unidentified co-conspirators are not in violation of Federal Civil Rights Laws\* before this NPRM 92-235 can be considered.

\* see appendix -7 pages

Merrill T. See  
1/26/93

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Am Jur:

4 Am Jur 2d, Amusements and Exhibitions § 6.

## INTERPRETIVE NOTES AND DECISIONS

Injunctive relief may not be sought under 18 USC § 244, as § 244 provides no basis for civil jurisdiction. *Quarles v Texas* (1970, DC Tex) 312 F Supp 835.

## § 245. Federally protected activities

(a)(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or the Deputy Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

(2) Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

→ (b) Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

→ (B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

(C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;

(D) serving, or attending upon any court in connection with possible service, as a grand or petit juror in any court of the United States;

→ (E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or

(2) any person because of his race, color, religion or national origin and because he is or has been—

(A) enrolling in or attending any public school or public college;

(B) participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;

(C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;

(D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;

(E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;

(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and (i) which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments, and (ii) which holds itself out as serving patrons of such establishments; or

(3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

→ (4) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) participating, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or

→ (B) affording another person or class of persons opportunity or protection to so participate; or

(5) any citizen because he is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other

persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

→ shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. As used in this section, the term “participating lawfully in speech or peaceful assembly” shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (4)(A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as his residence.

(c) Nothing in this section shall be construed so as to deter any law enforcement officer from lawfully carrying out the duties of his office; and no law enforcement officer shall be considered to be in violation of this section for lawfully carrying out the duties of his office or lawfully enforcing ordinances and laws of the United States, the District of Columbia, any of the several States, or any political subdivision of a State. For purposes of the preceding sentence, the term “law enforcement officer” means any officer of the United States, the District of Columbia, a State, or political subdivision of a State, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a State, or a political subdivision of a State.

(Added Apr. 11, 1968, P. L. 90-284, Title I, § 101(a), 82 Stat. 73.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Other provisions:

**Fair housing.** Section 101(b) of Act Apr. 11, 1968, P.L. 90-284, provided: “Nothing contained in this section shall apply to or affect activities under title VIII of this Act [42 USCS §§ 3533, 3535, 3601 et seq.]”

**Riots or civil disturbances, suppression and restoration of law and order; Acts or omissions of enforcement officers and members of military service not subject to this section.** Section 101(c) of Act Apr. 11, 1968, P.L. 90-284, provided:

## CHAPTER 13. CIVIL RIGHTS

### Section

- 241. Conspiracy against rights of citizens
- 242. Deprivation of rights under color of law
- 243. Exclusion of jurors on account of race or color
- 244. Discrimination against person wearing uniform of armed forces
- 245. Federally protected activities
- 246. Deprivation of relief benefits

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Amendments:

**1968.** Act Apr. 11, 1968, P. L. 90-284, Title I, § 102, 82 Stat. 75, amended the analysis of this chapter by adding item 245.

**1976.** Act Oct. 2, 1976, P. L. 94-453, § 4(b), 90 Stat. 1517, amended the analysis of this chapter by adding item 246.

### § 241. Conspiracy against rights of citizens

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

(June 25, 1948, ch 645, § 1, 62 Stat. 696; Apr. 11, 1968, P.L. 90-284, Title I, § 103(a), 82 Stat. 75.)

#### HISTORY; ANCILLARY LAWS AND DIRECTIVES

##### Prior law and revision:

This section is based on Act Mar. 4, 1909, ch 321, § 19, 35 Stat. 1092 (former 18 U.S.C. § 51).

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecutions for violations of the act.

else connected with powers or duties of National Government is attribute of national citizenship and, as such, under protection of and guaranteed by United States. *United States v Cruikshank* (1876) 92 US 542, 23 L Ed 588.

#### 21. Bear arms

Right to bear arms for lawful purpose was not granted by Constitution and Second Amendment, which declares that this right shall not be infringed, and means no more than that it shall not be infringed by Congress, leaving people to look to police powers of state for their protection against any violation of such right by their fellow citizens, predecessor of 18 USCS § 241. *United States v Cruikshank* (1876) 92 US 542, 23 L Ed 588.

#### 22. Due process of law and equal protection of the laws

Conspiracy provision of civil rights statutes did not afford protection against violation of equal protection clause of Fourteenth Amendment unless violation took place on account of race, color, or previous condition of servitude. *United States v Cruikshank* (1876) 92 US 542, 23 L Ed 588.

Violation of Fourteenth Amendment due process rights required actual denial by state or its officers in order to constitute violation of conspiracy provision of civil rights statutes. *United States v Powell* (1909) 212 US 564, 53 L Ed 653, 29 S Ct 690.

Although state's action need be neither exclusive nor direct, 18 USCS § 241 was applicable only to extent that Fourteenth Amendment rights were violated or planned to be violated by wrongs done partly as result of state action coming into play. *United States v Guest* (1966) 383 US 745, 16 L Ed 2d 239, 86 S Ct 1170.

Federal civil rights statute (18 USCS § 241), which makes conspiracy to interfere with citizen's right or enjoyment of any right or privilege secured to him by Constitution or laws of United States criminal offense, must be accorded sweep as broad as its language; this language includes rights under due process clause of Fourteenth Amendment. *United States v Price* (1966) 383 US 787, 16 L Ed 2d 267, 86 S Ct 1152.

Trial court committed plain error in instructing jury that defendant law enforcement officers indicted under 18 USCS § 241 in connection with a scheme by which nonresidents would be arrested upon leaving local taverns, charged with drunken driving, put in jail, and told that upon payment of "bail" they would be released without the necessity of trial, could be convicted on a finding that state rules of criminal procedure had not been followed; "due process" does not refer

to state procedural rules, but rather to those rights which have been made specific by the express terms of the Constitution or laws of the United States or by decisions of the courts interpreting them. *United States v O'Dell* (1972, CA6 Tenn) 462 F2d 224.

Sweep of 18 USCS § 241 is not confined to rights expressly defined in Constitution, but includes those rights judicially determined to be fundamental and embraced by implication within equal protection clause of the Fourteenth Amendment. *United States v Anderson* (1973, CA4 W Va) 481 F2d 685, affd 417 US 211, 41 L Ed 2d 20, 94 S Ct 2253.

Opening, reading and copying of plaintiffs' mail by CIA agents, without warrant having been obtained, and without evidence submitted to suggest existence of probable cause for warrantless search, was illegal under First and Fourteenth Amendments of Constitution, and probably violated 18 USCS §§ 241, 371, and 1702. *Birnbaum v United States* (1977, DC NY) 436 F Supp 967.

#### Annotations:

Criminal liability, under 18 USCS §§ 241, 242, for depriving, or conspiring to deprive, a person of his civil rights. 20 L Ed 2d 1454 (see, especially, § 6 as to rights protected against conspiracy).

#### 23. Education

Conspiracy to deprive citizens, by intimidation of right to public school, was violation of predecessor of 18 USCS § 241. *United States v Blackburn* (1874, DC Mo) F Cas No 14603.

#### 24. Enforcement of judgments

Conspiracy to prevent individual from enforcing equitable decree rendered in his favor by federal court was offense under predecessor of 18 USCS § 241. *United States v Lancaster* (1891, CC Ga) 44 F 896.

#### 25. Free speech and press

Conspiracy by several to deprive individual of free speech and free press was not offense. *Powe v United States* (1940, CA5 Ala) 109 F2d 147, cert den 309 US 679, 84 L Ed 1023, 60 S Ct 717.

#### 26. Freedom from unlawful arrest

18 USCS § 241 covered conspiracy to deprive citizens of their rights under the Equal Protection Clause even though most of conspirators were private citizens whose activities could not be violative of the Fourteenth Amendment, since indictment alleged, as one of methods used, false arrest of persons being harassed, in which government officials could have been involved.

of former presidential assistant who supervised break-in of psychiatrist's office, alleged mistaken belief that break-in was lawful under national security exception to Fourth Amendment warrant requirement did not constitute valid defense where defendant did not contend that specific judicial or presidential approval had been obtained for break-in. *United States v Ehrlichman* (1976) 178 App DC 144, 546 F2d 910, 39 ALR Fed 604, cert den 429 US 1120, 51 L Ed 2d 570, 97 S Ct 1155.

#### V. PERSONS LIABLE

##### 47. Conspirators

While clearly two or more persons must conspire for violation of 18 USCS § 241, it is not necessary, in order to convict and punish one conspirator, that other conspirators also be indicted and punished, despite use of word "they" in penalty clause. *United States v Crum* (1975, DC Pa) 404 F Supp 1161.

##### 48. —Acquittal of some co-conspirators

Where indictment charged two named defendants and other persons unknown with conspiracy to injure and oppress certain named citizens of their right to vote by means of forging of 254 ballots, acquittal of one of named defendants would not prevent conviction of other named defendant, since crime was such as would require the acts of several persons. *Prichard v United States* (1950, CA6 Ky) 181 F2d 326, affd 339 US 974, 94 L Ed 1380, 70 S Ct 1029.

Conviction under 18 USCS § 241 of some alleged conspirators does not fall because others named are acquitted, even though conviction of the others is logically required for finding of guilty of those held. *United States v Robinson* (1974, CA7 Ill) 503 F2d 208, cert den 420 US 949, 43 L Ed 2d 427, 95 S Ct 1333.

Although there was finding that defendant had no culpable participation in actual bombing, and he was acquitted on substantive charges of intimidating witness by force and violence and using dynamite bomb to commit felony, jury could still find defendant was active participant in conspiracy resulting in death of federal witness. *United States v Guillelte* (1976, CA2 Conn) 547 F2d 743, cert den 434 US 839, 54 L Ed 2d 102, 98 S Ct 132.

##### 49. Private individual or government official

Federal civil rights statute (18 USCS § 241) which makes conspiracy to interfere with citizen's free exercise or enjoyment of any right or privilege secured to him by Federal Constitution criminal offense is violated by conspiracy to interfere with citizen's right to travel freely from one state to another, irrespective of whether

interference is by governmental or private action. *United States v Guest* (1966) 383 US 745, 16 L Ed 2d 239, 86 S Ct 1170.

Federal civil rights statute (18 USCS § 241), which makes conspiracy to interfere with citizen's free exercise or enjoyment of any right or privilege secured to him by Constitution or laws of United States criminal offense, includes rights or privileges protected by Fourteenth Amendment, and extends to conspiracies otherwise within scope of statute, participated in by officials alone or in collaboration with private persons. *United States v Price* (1966) 383 US 787, 16 L Ed 2d 267, 86 S Ct 1152.

##### 50. Person acquiescing, silent, or failing to act

Mere acquiescence or silence or failure of officer to perform duty did not make one participant in conspiracy unless he acted or failed to act with knowledge of purpose of conspiracy and with view of protecting and aiding it. *Luteran v United States* (1937, CA8 Mo) 93 F2d 395, cert den 303 US 644, 82 L Ed 1104, 58 S Ct 643, reh den 303 US 668, 82 L Ed 1124, 58 S Ct 756 and cert den 303 US 644, 82 L Ed 1103, 58 S Ct 642, reh den 303 US 668, 82 L Ed 1124, 58 S Ct 756.

#### VI. PROSECUTION AND PUNISHMENT

##### 51. Search and seizure

Persons indicted for violation of 18 USCS § 241 by oppressing citizens of state in their right of suffrage were not aggrieved and had no standing to assert alleged improper procedure followed in impounding election records under order of district court from state election officials not named in indictment, in alleged violation of constitutional rights of such officials. *United States v Ponder* (1956, CA4 NC) 238 F2d 825.

##### 52. Indictment or information, generally

Practice of preferring indictments for conspiracy in cases of completed offenses, where there are two or more participants, has become very extended; but care should be taken that practice should not be unduly extended, nor federal conspiracy statutes be stretched to enlarge federal jurisdiction so that it will cover individual acts of interference with state elections; for this is contrary to policy of federal non-interference in state elections, which is so fully recognized by Supreme Court. *United States v Gradwell* (1917) 243 US 476, 61 L Ed 857, 37 S Ct 407.

##### 53. —Allegations as to particular rights affected

Indictment charging defendants with conspiracy to deprive citizens of their lives and liberty without due process of law did not charge offense within predecessor to 18 USCS § 241, since

## § 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

R.S. § 1979; Pub.L. 96-170, § 1, Dec. 29, 1979, 93 Stat. 1284.

### Historical Note

**Codification.** R.S. § 1979 is from Act Apr. 20, 1871, c. 22, § 1, 17 Stat. 13.

Section was formerly classified to section 43 of Title 8, Aliens and Nationality.

**1979 Amendment.** Pub.L. 96-170 added "or the District of Columbia" following "Territory," and provisions relating to Acts of Congress applicable solely to the District of Columbia.

**Effective Date of 1979 Amendment.** 1979 Amendment by Pub.L. 96-170 applicable

with respect to any deprivation of rights, privileges, or immunities secured by the Constitution and laws occurring after Dec. 29, 1979, see section 3 of Pub.L. 96-170, set out as an Effective Date of 1979 Amendment note under section 1343 of Title 28, Judiciary and Judicial Procedure.

**Legislative History.** For legislative history and purpose of Pub.L. 96-170, see 1979 U.S. Code Cong. and Adm. News, p. 2809.

### Cross References

Citizenship clause, see U.S.C.A. Const. Amend. 14, § 1.

Conspiracy to interfere with civil rights, damages for, see section 1985 of this title. Jurisdiction of district courts of civil rights actions, see section 1343 of Title 28, Judiciary and Judicial Procedure.

Privileges and immunities clauses, see U.S.C.A. Const. Art. 4, § 2, cl. 1 and Amend. 14, § 1.

### Federal Rules of Civil Procedure

One form of action, see rule 2, Title 28, Judiciary and Judicial Procedure.

Rules as governing procedure in all suits of civil nature whether cognizable as cases at law or in equity or admiralty, see rule 1.

### Library References

Civil Rights ②13.5(1).

C.J.S. Civil Rights §§ 114, 115, 119, 124.

### West's Federal Forms

Allegations of jurisdiction, see §§ 1057, 1060.

Complaint, see §§ 1849, 1850, 1850.10, 1851, 1851.5, 1852.5 to 1852.15.

Declaratory judgments, see § 4781 et seq.

Preliminary injunctions and temporary restraining orders, matters pertaining to, see § 5271 et seq.

Three-judge courts, matters pertaining to, see § 6051 et seq.

## § 1985. Conspiracy to interfere with civil rights

### Preventing officer from performing duties

(1) If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

### Obstructing justice; intimidating party, witness, or juror

(2) If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

### Depriving persons of rights or privileges

(3) If two or more persons in any State or Territory conspire to go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy,



whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

R.S. § 1980.

#### Historical Note

**Codification.** R.S. § 1980 is from Acts July 31, 1861, c. 33, 12 Stat. 284; Apr. 20, 1871, c. 22, § 2, 17 Stat. 13.

#### Cross References

Conspiracy against rights of citizens, see section 241 of Title 18, Crimes and Criminal Procedure.  
 Conspiracy to commit offense or to defraud United States, see section 371 of Title 18.  
 Conspiracy to impede or injure officer, see section 372 of Title 18.  
 Deprivation of rights under color of law, see section 242 of Title 18.  
 Equal protection, see U.S.C.A.Const. Amend. 14, § 1.  
 Jurisdiction of district courts of civil rights actions, see section 1343 of Title 28, Judiciary and Judicial Procedure.  
 Obstruction of justice, see section 1501 et seq. of Title 18, Crimes and Criminal Procedure.  
 Privileges and immunities, see U.S.C.A.Const. Art. 4, § 2, cl. 1, and Amend. 14, § 1.  
 Universal male suffrage, see U.S.C.A.Const. Amend. 15.  
 Woman suffrage, see U.S.C.A.Const. Amend. 19.

#### Library References

Conspiracy  $\Rightarrow$  7.5 to 7.7, 29.5, 29.6. C.J.S. Conspiracy §§ 10.2, 57(1, 2).

#### West's Federal Forms

Allegations of jurisdiction, see §§ 1057, 1060.  
 Complaint, see § 1850 Comment.

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section relating to a conspiracy to deprive others of their civil rights would be struck, since even a cursory review of the amended complaint showed that the word "conspiracy" was not even mentioned, let alone alleged with the requisite clarity. *Schwab v. First Appalachian Ins. Co.*, D.C.Fla.1973, 58 F.R.D. 615.

Complaint alleging that defendant had interfered with attorney-client relation-

ship existing between plaintiffs, that defendant had made very critical comments about attorney, that he had defamed plaintiffs' character and that the plaintiffs had been deprived of their civil rights by defendant's action in furtherance of a conspiracy with another person was properly stricken and the cause dismissed on grounds of scurrility. *Skolnick v. Nudelmann*, 1968, 237 N.E.2d 804, 95 Ill.App.2d 293.

### § 1986. Action for neglect to prevent

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding \$5,000 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

R.S. § 1981.

#### Historical Note

**Codification.** R.S. § 1981 is from Act Apr. 20, 1871, c. 22, § 6, 17 Stat. 15.

#### Federal Rules of Civil Procedure

Joinder of persons needed for just adjudication, see rule 19, Title 28, Judiciary and Judicial Procedure.  
 Misjoinder and non-joinder of parties, see rule 21.  
 One form of action, see rule 2.  
 Permissive joinder of parties, see rule 20.  
 Substitution of parties, see rule 25.

#### Library References

Civil Rights  $\Rightarrow$  15. 16.  
 Torts  $\Rightarrow$  6.

C.J.S. Civil Rights §§ 24, 197 to 200.  
 C.J.S. Torts §§ 13 et seq., 40 et seq.

#### West's Federal Forms

Allegations of jurisdiction, see §§ 1057, 1060.  
 Answer,  
 Failure to join party, see §§ 2040 to 2042.  
 Statute of limitations, see §§ 2109 to 2113.